



Landlord Tenant Law Updates



LB 320 – Tenant Protection Omnibus Bill

- Passed the legislature on April 29
- Incorporates a number of proposed revisions to the Nebraska Residential Landlord and Tenant Act
- The changes are effective as of August 28, 2021



Right of Access

- 76-1423 (Access)
- Unchanged: tenant may not “unreasonably withhold consent” and landlord may enter dwelling unit without consent “in case of emergency”
- New: Landlord must give the tenant notice:
 - At least 24 hours in advance
 - In writing
 - The notice must include the purpose for entry
 - Must include a reasonable period during which the landlord anticipates making entry
 - Every unit must get its own written notice



Restitution Complaint

- 76-1441 (Complaint for restitution; filing; contents)
- Always required: the facts “with particularity,” reasonably accurate description of the premises, and the requisite compliance with the notice provisions.
- New requirement: must state the specific statutory authority under which possession is sought.
- This will aid with Supreme Court reporting of the eviction numbers across the state and the statutory basis for those evictions



Changes to Service

- 76-1442.01 (Summons; alternative methods of service; affidavit; contents)
- Still allows for constructive service as an alternative to personal service
- However, when service is constructive, the plaintiff's affidavit must detail why efforts to personally serve the summons were unsuccessful, and requires that the summons be posted at the "front door of the dwelling unit"



Continuances

- 76-1443 (Continuance; when)
- Prior standard for continuance of restitution trial was “extraordinary cause”
- Now: court may grant one continuance for “good cause” shown by either party. That is just for the first continuance though.
- Court “may” require a tenant to deposit with the clerk of the court such rental payments as accrue during the pendency of the suit



Tenant is victim of domestic violence

- 76-1431.01 (Tenant; victim of domestic violence; release from rental agreement; conditions; effect)
- Entirely new statute
- Allows tenant who is victim of domestic violence or a household member of a victim of domestic violence, to be released from a lease agreement
- Tenant has to obtain either a) a protective order or b) certification of the “activity” from a “qualified third party” as defined by the Violence Against Women Reauthorization Act of 2013
- Tenant has to provide written notice to landlord
- If the provisions of this statute are followed, tenant is not liable for rent or damages after the release date



Tenant is victim of domestic violence(part II)

- 76-1431 (Noncompliance notices)
- Mostly unchanged
- But a victim of domestic violence shall not be subject to a notice to quit for the act of domestic violence if the victim obtained the certification from a qualified third party (in addition to seeking a protective order or reports to a law enforcement agency, as before).
- And the statute makes specific that the perpetrator of the act of domestic violence cannot obtain the protections of a protective order, 3rd party certification, or cooperation with law enforcement.



Harmonize Mobile Home and Residential LLT laws

- The notice requirement for nonpayment of rent (see 76-1431) and return of security deposits (see 76-1416) were amended in 2019
- The analogous statutes in the Mobile Home Act (76-14,101 and -1485, -1486) were *not* amended at the same time
- Now the requirements for notice of nonpayment of rent and return of security deposits are the same, regardless of whether tenant is in a mobile home or a residential tenancy



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